

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

**JOHN WESLEY UNITED METHODIST
CHURCH**

Plaintiff,

v.

**CHURCH MUTUAL INSURANCE
COMPANY**

Defendants.

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CIVIL ACTION NO. 6:19-cv-00047

**DEFENDANT CHURCH MUTUAL INSURANCE
COMPANY'S NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant CHURCH MUTUAL INSURANCE COMPANY ("Church Mutual") files this Notice of Removal to the United States District Court for the Southern District of Texas, Victoria Division, and respectfully shows the following:

I. SUMMARY OF REMOVAL

1. Defendant Church Mutual Insurance Company ("Church Mutual") removes this matter from the 24th Judicial District Court of Victoria County, Texas to the United States District Court for the Southern District of Texas, Victoria Division. Church Mutual has met all of the requirements of 28 U.S.C. § 1441, as there is complete diversity between Plaintiff, JOHN WESLEY UNITED METHODIST CHURCH (hereinafter, sometimes "John Wesley UMC" or "Plaintiff"), a citizen of the State of Texas, and Church Mutual, a citizen of the State of Wisconsin. The amount in controversy in this action exceeds \$ 75,000.00.

II. REMOVAL EXHIBITS

2. In support of its Notice of Removal, Church Mutual attaches the following exhibits, and incorporates the same herein by reference:

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| Exhibit A | Civil Cover Sheet and Supplemental Civil Cover Sheet |
| Exhibit B | Register of Actions for of the 24th Judicial District Court of Victoria County for Cause No. 19-05-84437-A; |
| Exhibit C | Plaintiff's Original Petition (5/07/2019); |
| Exhibit D | Citation and Officer's Return for Church Mutual Insurance Company; |
| Exhibit E | Defendant Church Mutual Insurance Company's Original Answer (05/29/2019) |
| Exhibit F | Certificate of Interested Parties |
| Exhibit G | List of All Counsel of Record. |
| Exhibit H | Disclosure Statement Pursuant to FED. R. CIV. P. 7.1. |

III. PROCEDURAL BACKGROUND

3. On May 7, 2019, Plaintiff commenced this civil action by filing Plaintiff's Original Petition in the 24th District Court of Victoria County, Texas as Cause No. 19-05-84437-A; *John Wesley United Methodist Church v. Church Mutual Insurance Company* ("State Court Suit").

4. In its Petition, John Wesley UMC seeks damages related to a property-insurance policy issued by Church Mutual in effect when John Wesley UMC's property was allegedly damaged by a storm in August of 2017.¹ The Petition makes numerous allegations against Church Mutual, including causes of action for negligence, breach of contract, violations of the Texas

¹ ----- See Ex. B., Pltf's Orig. Pet. ¶ 11.

Deceptive Trade Practices Act, Texas Insurance Code, and breach of the common law duty of good faith and fair dealing.²

5. Church Mutual now removes this case to federal court pursuant to 28 U.S.C. § 1441.

IV. ARGUMENT AND AUTHORITIES

A. Legal standard for Removal

6. A defendant has the right to remove a case to federal court when federal jurisdiction exists and the removal procedure is properly followed.³ To determine whether removal jurisdiction exists, the claims in the state court petition are considered as they exist at the time of removal.⁴

B. This Court has jurisdiction pursuant to 28 U.S.C. § 1332.

There is complete diversity between the parties.

7. Federal district courts have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000 (exclusive of interest and costs) and is between citizens of different states.⁵ If federal jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332, a case is removable when none of the parties in interest properly joined as defendants is a citizen of the State in which the action is brought.⁶

8. John Wesley UMC is a non-profit corporation incorporated in the State of Texas with its principal place of business in Victoria County, Texas.⁷ Church Mutual is a corporation duly organized under the laws of the State of Wisconsin, which maintains its principal business

2 ----- See, generally, Ex. B., Pltff's Orig. Pet. pp. 7 – 15.

3 ----- See, *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002) (citing 28 U.S.C. § 1441).

4 ----- *Manguno*, 276 F.3d at 723.

5 ----- 28 U.S.C. § 1332(a)(1).

6 ----- 28 U.S.C. § 1441(b).

7 ----- See Ex. B, p. 1.

offices in Merrill, Lincoln County, Wisconsin. Accordingly, there is complete diversity between John Wesley UMC and Church Mutual.

The amount in controversy exceeds \$75,000.00.

9. John Wesley UMC's Petition expressly states "Plaintiff seeks monetary relief ... in excess of \$ 1,000,000.00"⁸ Thus, the matter in controversy exceeds the sum or value of \$ 75,000.00 (exclusive of interest, costs, and attorney fees), satisfying the requirements of 28 U.S.C. § 1332(a); this case is therefore subject to removal pursuant to 28 U.S.C. §§ 1441 and 1446.

C. All requirements for removal have been met and removal to this Court is proper.

10. In accordance with 28 U.S.C. § 1446(b)(1), Church Mutual timely files its notice of removal within 30 days after receiving a copy of the initial pleading on March 22, 2019. Church Mutual appeared and answered in state court on April 15, 2019. Removal is therefore timely as this Notice of Removal was filed within the time limits required.

11. The United States District Court for the Southern District of Texas, Victoria Division is the proper court in which to remove this action because this civil action is pending in this district and division.⁹

12. In accordance with the provisions of 28 U.S.C. § 1446(d), Church Mutual is serving written notice upon counsel for John Wesley UMC and is filing a copy of this Notice of Removal with the District Clerk of Victoria County, Texas.

⁸ ----- See Ex. B, p. 13; also 28 U.S.C. § 1446(c)(2) (sum demanded in good faith in the petition is the amount in controversy).

⁹ ----- 28 U.S.C. § 1446(a).

VI. CONCLUSION

WHEREFORE Defendant, **CHURCH MUTUAL INSURANCE COMPANY**, files its Notice that the above-entitled action is removed from the 24th District Court of Victoria County, Texas to the United States District Court for the Southern District of Texas, Victoria Division.

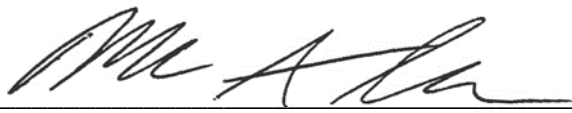
Respectfully submitted,

By: 
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CHURCH MUTUAL INSURANCE COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this instrument has been served on all counsel of record by e-filing, certified mail – return receipt requested, regular mail or hand delivery on this 29th day of May 2019.

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